Attorney's Docket No. YORK.US.2 *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Koch, et al.	]
Serial No.:	10/710,845	] Examiner: Anthony N. Bartosik
Confirmation No.:	4844	]
Filed:	08/06/2004	] Group Art Unit: 3635
For:	COMBINATION FLASHING AND DRAINAGE SYSTEM	]

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION TRAVERSING REJECTION
EXPLAINING TECHNICAL DIFFERENCES BETWEEN PRESENT INVENTION AND COHEN , U.S. 2,005,221
37 CFR 1.132

To the Commissioner for Patents:

I, Joseph G. Lincourt, being duly sworn, declare as follows:

1. That I am one of the inventors named in the above-captioned patent application.

2. That as president of York Manufacturing, the assignee of the above-captioned patent application, I have been lecturing to architecture and masonry professionals for the last five years on the topic of flashing selection and installation. Previous to that I was employed at US Felt Marketing and Wicking Systems that sold products to the

electric motor industry and I became expert at wicking technology. That, backed up by my Bachelors Degree in Mechanical Engineering, represents my basis for expert status on this topic.

3. That, on account of my education, position, and experience, I consider myself to be an expert in the field of flashing.

4. That I am familiar with the claimed invention, namely, a combination through-wall masonry flashing / drainage device comprising a flashing membrane, the flashing membrane having a first side and a second side opposite the first side; a reinforcing cloth adhered to the flashing membrane first side; and a wicking cloth adhered to the flashing membrane second side.

5. That as proof of our expertise in this matter we offer that York Manufacturing bought the rights to our Copper Flashing products in 1979 from Wasco Manufacturing. Wasco is an acronym for Wasserman and Cohen who authored the 1935 Cohen et al. patent referenced above and therefore this patent actually defines York's flashings. As for the Lolley et al. patent, Richard Lolley was the Executive Vice President of York Manufacturing when that patent was applied for and approved.

6. That the intent of the Cohen patent, based on our internal corporate knowledge and experience, is to introduce a reinforcement scrim adhered to a non-corrosive membrane, preferably copper, utilizing a suitable waterproof adhesive. The purpose of the invention is to increase the puncture and tear resistance of the metal and thereby allow the manufacture of the flashing material with lighter weight metal foils to

lower cost and improve ease of installation. The patent suggests options for scrim materials such as burlap or other coarse materials which would then be saturated with asphalt and adhered to the metal substrate. The asphalt served the purpose of waterproofing the scrim as well as securing it to the metal.

7. That the examiner states that Cohen teaches us that wick cloths were used to draw away moisture in the cavity. I can find no mention of this in the patent anywhere. I believe that the examiner may have interpreted the word felt in the patent to mean wick. I refer specifically to Cohen et al., col. 3, lines 40 – 75.

8. That the felt that is suggested in the above excerpt from Cohen is a felt paper that is saturated with asphalt so as to be waterproof. It is commonly referred to as roofing paper or "tar paper". If this is what the examiner is calling a wick, then he has in fact confused felt for wicking. The wick called out in the York patent for a flashing / drainage system must be absorbent in order to perform the task of transferring the water to the exterior of the wall and therefore would be the antithesis of the waterproofed felt of Cohen. Cohen's felt was dictated to be anhydrous or hydrophobic so as not to absorb water. Therefore, Cohen teaches away from the present invention.

9. That in our response to the previous Office action, we offered several renown, long standing masonry contractor's testimonials that revered our York' flashing / drainage system as one of the most innovative they have seen in many years. These

are the same people who have been using the Copper Fabric flashing, delivered by York and described in the Cohen et al patent, for the last 25 years.

10. That the essence of the present invention as claimed lies in the wicking material called out on its top surface. This wick is called out in claims 1, 6, 7, 8, 9, 11, 16, 17, 18, 19, 21 and 24. The examiner calls out Lolley et al, Rizzo et al, Sourlis et al and Cohen et al in his rejection of all of these claims. In every one of these patents, the materials called out differ dramatically from the wicking material of the York application in that the inventor specifies that the material be waterproofed. The wick in the York invention must be absorbent in order to perform the task. Herein lays the basis for our rebuttal of the examiner's conclusions.

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

/Joe Lincourt/

Joseph G. Lincourt

Date: September 5, 2008